

House File 380 - Reprinted

HOUSE FILE 380
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 41)

(As Amended and Passed by the House March 25, 2013)

A BILL FOR

1 An Act concerning setoff procedures for collection of debts
2 owed a state agency or political subdivision.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.504, subsection 1, paragraph a, Code
2 2013, is amended to read as follows:

3 a. "*Collection entity*" means the department of
4 administrative services and any other ~~state~~ agency that
5 maintains a separate accounting system and elects to establish
6 a debt collection setoff procedure for collection of debts owed
7 to ~~the state or its agencies~~ an agency.

8 Sec. 2. Section 8A.504, subsection 1, Code 2013, is amended
9 by adding the following new paragraph:

10 NEW PARAGRAPH. 0b. "*Debtor*" means a person who is liable
11 on a claim to an agency.

12 Sec. 3. Section 8A.504, subsection 1, paragraph b, Code
13 2013, is amended to read as follows:

14 b. "*Person*" does not include a ~~state~~ an agency.

15 Sec. 4. Section 8A.504, subsection 1, paragraph d, Code
16 2013, is amended to read as follows:

17 d. "~~State agency~~" "Agency" means a board, commission,
18 department, including the department of administrative
19 services, or other administrative office or unit of the
20 state of Iowa or any other state entity reported in the
21 Iowa comprehensive annual financial report, or a political
22 subdivision of the state, or an office or unit of a political
23 subdivision. "~~State agency~~" "Agency" does include the clerk
24 of the district court as it relates to the collection of a
25 qualifying debt. "~~State agency~~" "Agency" does not include the
26 general assembly or the governor.

27 Sec. 5. Section 8A.504, subsections 2, 3, and 5, Code 2013,
28 are amended to read as follows:

29 2. *Setoff procedure.* The collection entity shall establish
30 and maintain a procedure to set off against any claim owed to a
31 ~~person debtor~~ debtor by a ~~state~~ an agency any liability of that ~~person~~
32 debtor owed to a ~~state~~ an agency, a support debt being enforced
33 by the child support recovery unit pursuant to chapter 252B,
34 or such other qualifying debt. The procedure shall only apply
35 when at the discretion of the director it is feasible. The

1 procedure shall meet the following conditions:

2 a. Before setoff, a ~~person's~~ debtor's liability to a ~~state~~
3 an agency and the ~~person's~~ debtor's claim on a ~~state~~ an agency
4 shall be in the form of a liquidated sum due, owing, and
5 payable.

6 b. Before setoff, the ~~state~~ agency shall obtain and forward
7 to the collection entity the full name and social security
8 number of the ~~person~~ debtor liable to it the agency or to whom
9 a claim is owing who is a natural person. If the ~~person~~ debtor
10 is not a natural person, before setoff, the ~~state~~ agency shall
11 forward to the collection entity the information concerning the
12 ~~person~~ debtor as the collection entity shall, by rule, require.
13 The collection entity shall cooperate with other ~~state~~ agencies
14 in the exchange of information relevant to the identification
15 of ~~persons~~ debtors liable to or claimants of ~~state~~ agencies.
16 However, the collection entity shall provide only relevant
17 information required by a ~~state~~ an agency. The information
18 shall be held in confidence and used for the purpose of setoff
19 only. Section 422.72, subsection 1, does not apply to this
20 paragraph.

21 c. Before setoff, a ~~state~~ an agency shall, at least
22 annually, submit to the collection entity the information
23 required by paragraph "b" along with the amount of each ~~person's~~
24 debtor's liability to and the amount of each claim on the ~~state~~
25 agency. The collection entity may, by rule, require more
26 frequent submissions.

27 d. Before setoff, the amount of a ~~person's~~ debtor's claim
28 on a ~~state~~ an agency and the amount of a ~~person's~~ debtor's
29 liability to a ~~state~~ an agency shall constitute a minimum
30 amount set by rule of the collection entity.

31 e. Upon submission of an allegation of liability by a
32 ~~state~~ an agency, the collection entity shall notify the ~~state~~
33 agency whether the ~~person~~ debtor allegedly liable is entitled
34 to payment from a ~~state~~ an agency, and, if so entitled, shall
35 notify the ~~state~~ agency of the amount of the ~~person's~~ debtor's

1 entitlement and of the ~~person's~~ debtor's last address known to
2 the collection entity. Section 422.72, subsection 1, does not
3 apply to this paragraph.

4 *f.* (1) Upon notice of entitlement to a payment, the ~~state~~
5 agency shall send written notification to that ~~person~~ debtor
6 of the ~~state~~ agency's assertion of its rights to all or a
7 portion of the payment and of the ~~state~~ agency's entitlement
8 to recover the liability through the setoff procedure, the
9 basis of the assertion, the opportunity to request that a
10 jointly or commonly owned right to payment be divided among
11 owners, and the ~~person's~~ debtor's opportunity to give written
12 notice of intent to contest the amount of the allegation. The
13 ~~state~~ agency shall send a copy of the notice to the collection
14 entity. An agency shall provide the debtor with an opportunity
15 to contest the liability. ~~A state~~ An agency subject to chapter
16 17A shall give notice, conduct hearings, and allow appeals in
17 conformity with chapter 17A.

18 (2) However, upon submission of an allegation of the
19 liability of a ~~person~~ debtor which is owing and payable to the
20 clerk of the district court and upon the determination by the
21 collection entity that the ~~person~~ debtor allegedly liable is
22 entitled to payment from ~~a state~~ an agency, the collection
23 entity shall send written notification to the ~~person~~ debtor
24 which states the assertion by the clerk of the district court
25 of rights to all or a portion of the payment, the clerk's
26 entitlement to recover the liability through the setoff
27 procedure, the basis of the assertions, the ~~person's~~ debtor's
28 opportunity to request within fifteen days of the mailing of
29 the notice that the collection entity divide a jointly or
30 commonly owned right to payment between owners, the opportunity
31 to contest the liability to the clerk by written application
32 to the clerk within fifteen days of the mailing of the notice,
33 and the ~~person's~~ debtor's opportunity to contest the collection
34 entity's setoff procedure.

35 *g.* Upon the timely request of a ~~person~~ debtor liable to

1 ~~a-state~~ an agency or of the spouse of that ~~person debtor~~ and
 2 upon receipt of the full name and social security number of
 3 the ~~person's debtor's~~ spouse, ~~a-state~~ an agency shall notify
 4 the collection entity of the request to divide a jointly or
 5 commonly owned right to payment. Any jointly or commonly owned
 6 right to payment is rebuttably presumed to be owned in equal
 7 portions by its joint or common owners.

8 *h.* The collection entity ~~shall~~, after the ~~state~~ agency has
 9 sent notice to the ~~person debtor~~ liable or, if the liability
 10 is owing and payable to the clerk of the district court, after
 11 the collection entity has sent notice to the ~~person debtor~~
 12 liable, shall set off the amount owed to the agency against any
 13 amount which ~~a-state~~ an agency owes that ~~person debtor~~. The
 14 collection entity shall refund any balance of the amount to
 15 the ~~person debtor~~. The collection entity shall periodically
 16 transfer amounts set off to the ~~state~~ agencies entitled to
 17 them. If a ~~person debtor~~ liable to ~~a-state~~ an agency gives
 18 written notice of intent to contest an allegation, ~~a-state~~ an
 19 agency shall hold a refund or rebate until final disposition
 20 of the allegation. Upon completion of the setoff, ~~a-state~~ an
 21 agency shall notify in writing the ~~person debtor~~ who was liable
 22 or, if the liability is owing and payable to the clerk of the
 23 district court, shall comply with the procedures as provided
 24 in paragraph "j".

25 *i.* The department of revenue's existing right to credit
 26 against tax due or to become due under section 422.73 is not to
 27 be impaired by a right granted to or a duty imposed upon the
 28 collection entity or other ~~state~~ agency by this section. This
 29 section is not intended to impose upon the collection entity or
 30 the department of revenue any additional requirement of notice,
 31 hearing, or appeal concerning the right to credit against tax
 32 due under section 422.73.

33 *j.* If the alleged liability is owing and payable to the
 34 clerk of the district court and setoff as provided in this
 35 section is sought, all of the following shall apply:

1 (1) The judicial branch shall prescribe procedures to
2 permit a ~~person~~ debtor to contest the amount of the ~~person's~~
3 debtor's liability to the clerk of the district court.

4 (2) The collection entity shall, except for the procedures
5 described in subparagraph (1), prescribe any other applicable
6 procedures concerning setoff as provided in this subsection.

7 (3) Upon completion of the setoff, the collection entity
8 shall file, at least monthly, with the clerk of the district
9 court a notice of satisfaction of each obligation to the
10 full extent of all moneys collected in satisfaction of the
11 obligation. The clerk shall record the notice and enter a
12 satisfaction for the amounts collected and a separate written
13 notice is not required.

14 k. If the alleged liability is owing and payable to a
15 community college and setoff pursuant to this section is
16 sought, both of the following shall apply:

17 (1) In addition to satisfying other applicable setoff
18 procedures established under this subsection, the community
19 college shall prescribe procedures to permit a ~~person~~ debtor to
20 contest the amount of the ~~person's~~ debtor's liability to the
21 community college. Such procedures shall be consistent with
22 and ensure the protection of the ~~person's~~ debtor's right of due
23 process under Iowa law.

24 (2) The collection entity shall, except for the procedures
25 prescribed pursuant to subparagraph (1), prescribe any other
26 applicable procedures concerning setoff as provided in this
27 subsection.

28 1. If an alleged liability is owing and payable that would
29 allow a county to refuse to renew a vehicle registration, the
30 county shall, in addition to satisfying other applicable setoff
31 procedures established under this subsection, provide notice of
32 the alleged liability to a debtor when a vehicle registration
33 renewal statement is sent to the debtor by the county.

34 3. In the case of multiple claims to payments filed under
35 this section, priority shall be given to claims filed by the

1 child support recovery unit or the foster care recovery unit,
 2 next priority shall be given to claims filed by the clerk of
 3 the district court, next priority shall be given to claims
 4 filed by the college student aid commission, next priority
 5 shall be given to claims filed by the investigations division
 6 of the department of inspections and appeals, and last priority
 7 shall be given to claims filed by other ~~state~~ agencies. In the
 8 case of multiple claims in which the priority is not otherwise
 9 provided by this subsection, priority shall be determined in
 10 accordance with rules to be established by the director.

11 5. Under substantive rules established by the director, the
 12 department shall seek reimbursement from other ~~state~~ agencies
 13 to recover its costs for setting off liabilities.

14 Sec. 6. Section 99D.2, subsection 3, Code 2013, is amended
 15 to read as follows:

16 3. "*Claimant agency*" means ~~a state~~ an agency as defined in
 17 section 8A.504, subsection 1, or the state court administrator
 18 as defined in section 602.1101.

19 Sec. 7. Section 99F.1, subsection 4, Code 2013, is amended
 20 to read as follows:

21 4. "*Claimant agency*" means ~~a state~~ an agency as defined in
 22 section 8A.504, subsection 1, or the state court administrator
 23 as defined in section 602.1101.

24 Sec. 8. Section 234.8, Code 2013, is amended to read as
 25 follows:

26 **234.8 Fees for child welfare services.**

27 The department of human services may charge a fee for
 28 child welfare services to a person liable for the cost of the
 29 services. The fee shall not exceed the reasonable cost of the
 30 services. The fee shall be based upon the person's ability
 31 to pay and consideration of the fee's impact upon the liable
 32 person's family and the goals identified in the case permanency
 33 plan. The department may assess the liable person for the
 34 fee and the means of recovery shall include a setoff against
 35 an amount owed by ~~a state~~ an agency to the person assessed

1 pursuant to section 8A.504. In addition the department may
2 establish an administrative process to recover the assessment
3 through automatic income withholding. The department shall
4 adopt rules pursuant to chapter 17A to implement the provisions
5 of this section. This section does not apply to court-ordered
6 services provided to juveniles which are a charge upon the
7 state pursuant to section 232.141 and services for which the
8 department has established a support obligation pursuant to
9 section 234.39.